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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,208	06/19/2003	Darko Segota	11023.6	9025
21999 7590 02/27/2007 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER RODRIGUEZ, WILLIAM H	
			ART UNIT	PAPER NUMBER
			3746	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/27/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/600,208

Applicant(s)

SEGOTA ET AL.

Examiner

William H. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-34 and 42-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-34 and 42-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to the RCE filed on 1/26/2007.

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter (a calculated distance; the flow regulator functioning to optimize air flow; reduce separation; reduce noise; a dynamic fluid flow regulator capable of adjusting; a movable pressure recovery drop; means for effectuating vector positioning; a fluid flow regulator that is removably attachable; a dynamic fluid flow regulator comprising an adjustable element). See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Appropriate correction is required. No new matter should be entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a calculated distance; the flow regulator functioning to optimize air flow; reduce separation; reduce noise; a dynamic fluid flow regulator capable of adjusting; a movable pressure recovery drop; means for effectuating vector positioning; a fluid flow regulator that is removably attachable; a dynamic fluid flow regulator comprising an adjustable element" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 34, 48-50, 55 and 60-77 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to teach the following: a calculated distance (how is it calculated?); the flow regulator functioning to optimize air flow (how does the optimization take place?); reduce separation (how separation is reduced?); reduce noise (how the noise is reduced?); a dynamic fluid flow regulator capable of adjusting (how is the fluid flow regulator adjusted?); a movable

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pressure recovery drop (how does this work?—where is this taught in the specification (state line, column?)); means for effectuating vector positioning (what are these means, how do they work?); a fluid flow regulator that is removably attachable (how can the fluid flow regulator be removable?); a dynamic fluid flow regulator comprising an adjustable element (where is this taught in the specification, how does this work?). Appropriate correction is required. No new matter should be entered.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 34, 48-50, 55 and 60-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "a calculated distance; optimize air, reduce noise, reduce separation" in claim 34 are relative terms which renders the claim indefinite. The terms " a calculated distance; optimize air, reduce noise, reduce separation " are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required. No new matter should be entered.

Claims 48 and 66 are incomplete. See the last line of each of these claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 31-34, 42-47, 51-54, 56-65, 69-72 and 74-77 are rejected under 35 U.S.C. 102(b) as being anticipated by **Schadow et al. (H1008)**.

Schadow (particularly Figure 1) teaches a nozzle (12 and 25) comprising: an intake for initially receiving a fluid therein 12; a surface relating with said intake that receives fluid flow thereon 16; a discharge providing an exit for said fluid from said nozzle 18; and at least one fluid flow regulator 18 featured and operable with said surface, said fluid flow regulator comprising a leading edge (upstream of 18), a trailing edge (downstream of 18), and an orthogonal a pressure recovery drop 18 extending between said leading and trailing edges to form a down step, said pressure recovery drop comprising at least one drop face.

Note: in Fig. 1 of the instant application, 18 is the leading edge, 26 is the drop, and 22 is the trailing edge.

Regarding the claimed limitations “said pressure recovery drop comprising at least one drop face of a calculated distance formed therein, said fluid flow regulator functioning to optimize air flow, reduce separation of said fluid over said surface relating with said intake of said exhaust system, and reduce induced noise.”, to the extent that the claimed invention produces the claimed desired results, the applied prior art structure being the same, does the same. In addition, it has been held that “[W]here the general conditions of a claim are disclosed

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in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), MPEP 2144.05 II

9. Claims 31-34, 42-47, 51-54, 56-65, 69-72 and 74-77 are rejected under 35 U.S.C. 102(b) as being anticipated by **Brock et al. (US 5,334,012)**.

Brock (particularly Figure 4) teaches a nozzle comprising: an intake for initially receiving a fluid therein; a surface relating with said intake that receives fluid flow thereon; a discharge providing an exit for said fluid from said nozzle; and a plurality of fluid flow regulators featured and operable with said surface, said fluid flow regulator comprising a leading edge (upstream of inlet 21), a trailing edge (downstream of inlet 21), and an orthogonal pressure recovery drop (37, 39) extending between said leading and trailing edges to form a down step, said pressure recovery drop comprising at least one drop face.

Note: in Fig. 1 of the instant application, 18 is the leading edge, 26 is the drop, and 22 is the trailing edge.

Regarding the claimed limitations “said pressure recovery drop comprising at least one drop face of a calculated distance formed therein, said fluid flow regulator functioning to optimize air flow, reduce separation of said fluid over said surface relating with said intake of said exhaust system, and reduce induced noise.”, to the extent that the claimed invention produces the claimed desired results, the applied prior art structure being the same, does the same. In addition, it has been held that “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine

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experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), MPEP 2144.05 II

10. Claims 31-34, 42-47, 51-54, 56-65, 69-72 and 74-77 are rejected under 35 U.S.C. 102(b) as being anticipated by **Tsukahara et al. (US 4,226,088)**.

Tsukahara (particularly Figure 1) teaches a nozzle comprising: an intake for initially receiving a fluid therein; a surface relating with said intake that receives fluid flow thereon; a discharge providing an exit for said fluid from said nozzle; and a plurality of fluid flow regulators featured and operable with said surface, said fluid flow regulator comprising a leading edge, a trailing edge, and an orthogonal pressure recovery drop extending between said leading and trailing edges to form a down step, said pressure recovery drop comprising at least one drop face.

Note: in Fig. 1 of the instant application, 18 is the leading edge, 26 is the drop, and 22 is the trailing edge.

Regarding the claimed limitations “said pressure recovery drop comprising at least one drop face of a calculated distance formed therein, said fluid flow regulator functioning to optimize air flow, reduce separation of said fluid over said surface relating with said intake of said exhaust system, and reduce induced noise.”, to the extent that the claimed invention produces the claimed desired results, the applied prior art structure being the same, does the same. In addition, it has been held that “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), MPEP 2144.05 II

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11. Claims 31-34, 42-47, 51-54, 56-65, 69-72 and 74-77 are rejected under 35 U.S.C. 102(b) as being anticipated by **Falco (US 5,133,519)**.

Falco (particularly Figures 1, 4) teaches a nozzle comprising: an intake for initially receiving a fluid therein; a surface relating with said intake that receives fluid flow thereon; a discharge providing an exit for said fluid from said nozzle; and a plurality of fluid flow regulators featured and operable with said surface, said fluid flow regulator comprising a leading edge, a trailing edge, and an orthogonal pressure recovery drop extending between said leading and trailing edges to form a down step, said pressure recovery drop comprising at least one drop face.

Note: in Fig. 1 of the instant application, 18 is the leading edge, 26 is the drop, and 22 is the trailing edge.

Regarding the claimed limitations “said pressure recovery drop comprising at least one drop face of a calculated distance formed therein, said fluid flow regulator functioning to optimize air flow, reduce separation of said fluid over said surface relating with said intake of said exhaust system, and reduce induced noise.”, to the extent that the claimed invention produces the claimed desired results, the applied prior art structure being the same, does the same. In addition, it has been held that “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), MPEP 2144.05 II

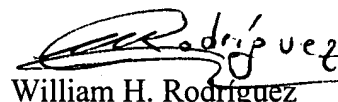
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Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodríguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William H. Rodriguez
Primary Examiner
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2/21/07